

UNION PACIFIC RAILROAD  
101 N. Wacker Dr., Rm. 1920  
Chicago, Illinois 60606-1718

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228994  
Mack H. Shumate, Jr. Senior General Attorney, Law Department

March 15, 2011

**VIA E-FILING**

The Honorable Cynthia T. Brown  
Chief, Section of Administration  
Surface Transportation Board  
395 E Street, S.W., Room #100  
Washington, DC 20423-0001

ENTERED  
Office of Proceedings

MAR 15 2011

Part of  
Public Record

**PARTIAL CONCURRENCE TO MOTION TO EXTEND  
THE TIME PERIOD FOR NEGOTIATION OF AN  
INTERIM TRAIL USE/RAILBANKING AGREEMENT**

**RE: Exempt Discontinuance of Service over a portion of the Bondurant Industrial Lead from Milepost 225.56 near Berwick to Milepost 232.80 near Bondurant, a distance of 7.24 miles in Polk County, Iowa; STB Docket AB-33 (Sub-No. 248X)**

Dear Ms. Brown:

Union Pacific Railroad Company ("Union Pacific") has received a request from the Iowa Natural Heritage Foundation dated September 15, 2010 for an additional 180-day extension in which to complete negotiations for the acquisition under the provisions 16 U.S.C. §1247(d) and 49 C.F.R. § 1152.29 regarding that portion of the Union Pacific's right-of-way known as the Bondurant Industrial Lead from Milepost 225.56 near Berwick, to Milepost 232.80 near Bondurant, a distance of 7.24 miles in Polk County, Iowa (the "Line").

As referenced in Union Pacific's prior response dated October 5, 2010, Union Pacific is only willing to continue negotiating with Iowa Natural Heritage Foundation concerning the following portion of the above-referenced Line (Milepost 226.38 near Berwick to Milepost 232.52 near Bondurant). With regard to this portion of the Line, Union Pacific supports the Council's request for an additional 180-day extension in which to negotiate. A copy of the Iowa Natural Heritage Foundation's most recent request dated March 14, 2011 is attached hereto as **Exhibit A** and hereby made a part hereof.

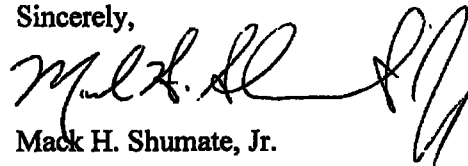


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**PRIOR CONSUMMATION OF A PORTION OF THE LINE**

Union Pacific advised the Board on October 5, 2010 that pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2) the Union Pacific did consummate the abandonment of that portion of the Line from Milepost 225.56 to Milepost 226.38 and that the portion of the Line from Milepost 232.52 to Milepost 232.80. These two small segments of the Line are simply no longer available for the requested trail use.

Sincerely,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", with a stylized flourish at the end.

Mack H. Shumate, Jr.

Attachment

cc: Iowa Natural Heritage Foundation



IOWA  
NATURAL HERITAGE  
FOUNDATION  
"for those who follow"

Insurance Exchange Bldg. Phone: 515-288-1846  
Suite 444 Fax: 515-288-0137  
505 Fifth Avenue e-mail: info@inhf.org  
Des Moines, IA 50309-2321 www.inhf.org

**EXHIBIT A**

March 14, 2011

Anna K. Quinlan, Secretary  
Surface Transportation Board  
1925 "K" Street, NW  
Washington, D.C. 20423-0001

**BEFORE THE SURFACE TRANSPORTATION BOARD**

RE: Union Pacific Railroad Abandonment, POLK County in Iowa;  
Docket # AB-33 (Sub-No.248X) from Milepost 225.56 near Berwick to  
Milepost 232.80 near Bondurant.

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**Motion to Extend the Time Period for Negotiation of an  
Interim Trail Use/Railbanking Agreement**

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In partnership and on behalf of the Polk County Conservation Board, the City of Bondurant (public agencies) and the Iowa Natural Heritage Foundation (non-profit corporation) hereby moves the Surface Transportation Board (STB or Board) to extend the time period for negotiation of a mutually acceptable interim trail use/railbanking agreement in this proceeding up and including September 15, 2011.

The Iowa Natural Heritage Foundation (INHF) and the public agencies have been negotiating with the Union Pacific Railroad (UPRR), but the parties need additional time to complete the negotiations.

To successfully preserve this corridor for interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247 (d), it is necessary for the negotiation period under the NITU to be extended up to and including September 15, 2011. See Policy Statement on Rails to Trails

Conversions, Ex Parte No. 274 (Sub. No. 13b) (ICC served Feb. 5, 1990) (extensions of time promote the establishment of trails and railbanking consistent with the National Trails System Act).

Since the issuance of the NITU, UPRR at all points has maintained intent to transfer the line intact for interim trail use. The railroad has not sold, or offered for sale, any parcels of land that would interfere with interim trail use and railbanking of the portion of the corridor that is covered by the NITU (Milepost 225.56 near Berwick to Milepost 232.80 near Bondurant). The line remains intact and throughout the period, the railroad has been negotiating with INHF for the transfer or sale of the corridor intact. Accordingly, the Board retains jurisdiction to extend the NITU to continue bona fide and active negotiations for interim trail use of the line.

In similar instances, this Board has reopened proceedings to permit the issuance of orders implementing section 8(d) for rail lines. The STB's authority to extend a NITU was upheld in Birt v. STB, 90 F.3d 580 (D.C. Cir. 1996). Here the parties merely seek an extension in the period for negotiation provided in a previously issued NITU. Such an extension will promote and further the purposes of the Trails Act.

For the reasons stated, INHF on behalf of the Polk County Conservation Board, the City of Bondurant and the Iowa Trails Council requests that an extension of the NITU negotiation period be granted through September 15, 2011.

Respectfully Submitted,



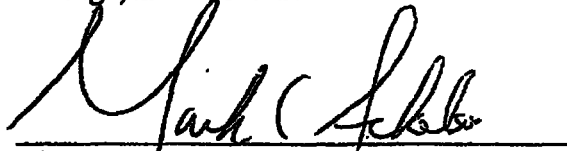
Mark C. Ackelson  
President, Iowa Natural Heritage Foundation

cc: Polk County Conservation Board, City of Bondurant

**CERTIFICATE OF SERVICE**

I hereby certify that on March 14, 2011, a true and accurate copy of the foregoing motion has been served to the following party via first-class mail, postage pre-paid and VIA FAX to 312-777-2065.

Mack H. Shumate, Jr.  
Union Pacific Railroad  
101 N. Wacker Dr. Rm 1920  
Chicago, IL 60606-1718



Mark C. Ackelson, President  
Iowa Natural Heritage Foundation

cc:

Dennis Parker  
Polk County Conservation Board  
11407 NW Jester Park Drive  
Granger, Iowa 50109

Mark Arentsen  
City of Bondurant  
200 2<sup>nd</sup> Street, NE Box 37  
Bondurant, Iowa 50035